

DUANE MORRIS LLP  
Hyman L. Schaffer  
Fran M. Jacobs  
Gregory P. Gulia  
Brian Damiano  
1540 Broadway  
New York, New York 10036  
(212) 692-1000  
*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SOFTWARE AG, INC. and SOFTWARE AG,

Plaintiffs,

-against-

CONSIST SOFTWARE SOLUTIONS, INC.,  
f/k/a CONSIST INTERNATIONAL, INC.  
and NATALIO FRIDMAN,

Defendants.

08 CV 00389 (CM) (FM)

**DECLARATION OF  
CHRISTOPHER J. ROONEY  
IN OPPOSITION TO  
MOTION FOR SANCTIONS**

CHRISTOPHER J. ROONEY declares:

1. I am an associate at the law firm of Duane Morris LLP, attorneys for defendants Consist Software Solutions, Inc. f/k/a Consist International, Inc. and Natalio Fridman in the above-captioned action. I submit this Declaration in opposition to Plaintiffs' motion for sanctions pursuant to Rule 37 of the Federal Rules of Civil Procedure.
2. The purpose of this Declaration is to present facts to the Court which establish that Plaintiffs' motion should be denied in its entirety.
3. On February 27, I visited the website of the Instituto Nacional de la Propiedad Industrial, or Argentine Patent and Trademark Office, located at "inpi.gov.ar." After reviewing the content of the website for five minutes, I was able to conduct searches for all "ADABAS" or

“NATURAL” trademarks registered at the Instituto Nacional de la Propiedad Industrial. My searches revealed that Consist International, Inc. owns three trademark registrations for “ADABAS” and four trademark registrations for “NATURAL.” In addition, my searches revealed the following information for each trademark registration: (1) the filing date of the application to register the trademark; (2) the class(es) of goods and/or services covered by the trademark; and (3) the registration number for the trademark. I was able to collect this information for the “ADABAS” and “NATURAL” trademark registrations owned by Consist International, Inc. in approximately fifteen minutes.

4. On February 27, I visited the website of the Direccion Nacional de la Propiedad Industrial, or Uruguayan Patent and Trademark Office, located at “dnpi.gub.uy.” After reviewing the content of the website for ten minutes, I was able to conduct searches for all “ADABAS” or “NATURAL” trademarks registered at the Instituto Nacional de la Propiedad Industrial. My searches revealed that Consist Teleinformatica S.A. owns one trademark registration for “ADABAS” and two trademark registrations for “NATURAL.” In addition, my searches revealed the following information for each trademark registration: (1) the class(es) of goods and/or services covered by the trademark; (2) the registration number for the trademark; and (3) the expiration date for the mark. I was able to collect this information for the “ADABAS” and “NATURAL” trademark registrations owned by Consist Teleinformatica S.A. in approximately twenty minutes.

5. By clicking on the “Ingles” link prominently displayed on the website of the Direccion Nacional de la Propiedad Industrial, or Uruguayan Patent and Trademark Office, a user of the website can translate the content of the website into English.

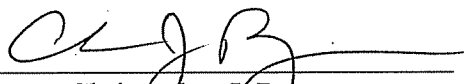
6. I am a native English speaker and I am not fluent or conversant in Spanish.

7. On February 27, I visited the Baker & McKenzie website located at [www.bakernet.com](http://www.bakernet.com). My search of the website revealed that Baker & McKenzie has fifteen office locations in over six Latin American jurisdictions, including Argentina. Attached as Exhibit A hereto is a printout from Baker & McKenzie's website that describes the firm's presence in Latin America.

8. To the best of my knowledge, Duane Morris LLP has no offices in Latin America.

Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Dated: New York, New York  
February 27, 2008

  
\_\_\_\_\_  
Christopher J. Rooney

A

Home Firm Profile Careers Practice News Events Locations Professionals Resources

Locations > Latin America

## Search



## Latin America Region Committed to Your Success

Bogotá / Brasília\* / Buenos Aires / Cancun / Caracas / Chihuahua / Guadalajara / Juarez / Mexico City / Monterrey / Porto Alegre\* / Rio de Janeiro\* / Santiago / São Paulo\* / Tijuana / Valencia

We make your business our business. The market in which you do business, the industry in which you operate, and the growth of your company are as essential to us as they are to you. We strive for your success. We are committed to it.

Our 15 locations in six Latin American jurisdictions, plus a solid network of correspondent firms, help us comply with this commitment.

### Global Coverage Defined by Local Experience

Over 400 attorneys in our Latin American offices help clients capitalize on business, trade, and investment opportunities in the region and throughout the world. Our clients range from businesses based in Latin America to large multinational corporations

**50 years**  
latin america

headquartered in the United States, Europe, and Asia Pacific. Each of our Latin American offices is a leading firm in its jurisdiction and is staffed by local attorneys who are among the most experienced and prestigious lawyers in the region. They have been a part of their respective legal and business communities for many years and have well-established relationships with local business, government and community leaders, court authorities, and other local attorneys.

Baker & McKenzie encourages community service, so our attorneys participate actively in local bar associations, serve as professors at local universities and other academic institutions, and lead many a project for community welfare. We are proud that our reputation for specialization,

**BAKER & MCKENZIE**

E-mail this page | Print this page

## Contacts

Latin America Regional Council

c/o Roberto Mendoza, Chairman

### Postal Address:

P.O. Box 1286  
Caracas 1010-A, Venezuela

### US Mailing Address:

M-287, Jet Cargo International  
P.O. Box 020010  
Miami, Florida 33102-0010, USA

Tel: +58 212 276 5089

Fax: +58 212 264 1532

E-mail: info-

latinamerica@bakernet.com

Regional Operating Officer:

Leon J. Sacks

Marketing Manager:

Maria Clara Ortega

## Of Note

PLC selected Baker & McKenzie as the best law firm in Latin America in its 2006 "Which Lawyer?" list of Top 20 firms. We also ranked first in 2005.

Baker & McKenzie was named Transfer Pricing Firm of the Year for Mexico in *International Tax Review's* America's Tax Awards 2006.

efficiency, creativity, and professional ethics has attracted a prime local and foreign clientele.

***Our "fair balance between global presence and local culture" helps us win Best Firm in Latin America.***

- "PLC Which Lawyer?" in 2006

***(Baker & McKenzie Latin America) "has consistently undertaken high profile work across several jurisdictions, backed up its omnipresent global network."***

- Chambers' Global The World's Leading Lawyers, 2002-2003

***Baker & McKenzie is 1st in Chambers' Top Six Firms in Latin America***

- Chambers' Global The World's Leading Lawyers, 2002-2003

\* Associated Firm

Our partner Jorge de Regil of Mexico City is named a member of the Mexican Academy of International Law.

Our Caracas office opened in 1955, making us the first firm to offer international legal advice in Latin America. Read our history of the Caracas office to learn more.

[^ back to top](#)

[Disclaimers](#) | [Copyright](#) | [Privacy Statement](#) | [Site Map](#) | [Contact](#)

This web site may be considered attorney advertising in some jurisdictions.